

**Office of Massachusetts Attorney General
Martha Coakley**



Program Guidelines

Local Consumer Programs

Revised: December 2009

Minimum Standards of Performance:

- LCP shall not charge consumers a fee for any services rendered under this award.
- Each LCP is responsible for providing phone response to consumers for a minimum of 30 hours per week. An LCP office must be open at least three days of the week. Additionally, each LCP must have an answering machine or voicemail system to receive calls outside of hours of business. However, under no circumstances should a phone go unanswered during normal business hours.
- Each LCP must have a functioning computer with internet access, word-processing capability, and spreadsheet capability.
- An LCP must have, at a minimum, one email address dedicated solely to the work of the LCP.
- Notice of office closings must be given to the Aaron Kravitz, Program Manager, at aaron.kravitz@state.ma.us or (617) 963-2096 at least three business days in advance. In the event of an office closing, the office's voicemail must indicate that the office is closed, when the office will reopen, and provide the PIAC Hotline number (617) 727-8400 for consumers who need immediate assistance.
- No LCP may close for more than five consecutive business days without advance written permission from the AGO.
- Each program agrees to maintain and utilize an updated copy of the AGO's Complaint Resource Guide.
- At least one staff member from the LCP must attend the regularly scheduled in-person or telephone conference calls offered by the AGO.
- Each LCP agrees to accept for mediation complaints forwarded from the AGO. Complaints may be referred by the town of residence of the consumer, or by the location of the business, either of which may be located within the LCP's service area.
- Each LCP agrees to accept all complaints filed directly with its office (as opposed to complaints forwarded from the AGO) regardless of the location of the business or consumer's residence.

- Any complaints that are sent to an LCP by the AGO in error should be returned to the AGO, with a note indicating the reason for the return.
- Each LCP agrees to utilize the complaint form (as periodically amended) provided by the AGO at www.mass.gov/ago.
- A consumer request for assistance is deemed a mediable complaint if it is:
 - a. Between an individual and a for-profit business
and
 - b. The consumer is seeking specified relief – rescission of the contract, return of funds, etc.
- An LCP may not mediate disputes:
 - between two private parties
 - between two businesses
 - in which the consumer is already working with an attorney
 - specifically relating to a charitable organization's execution of its charitable mission (should be referred to the AGO Non-Profit/Public Charities Division). A complaint may be mediated if the complaint pertains to a business transaction and does not relate to the performance of the organizations charitable purpose.
 - relating to a state agency (should be referred to the AGO, who will refer to agency or office with oversight of the state agency in question)

Many of these types of cases (with the exception of disputes against a state agency or against a charity) may be appropriate for Face to Face Mediation. In these instances, please contact the FTFMP in your area.

Relationship to Office of the Attorney General:

- At any time reference is made to the LCP's affiliation with the AGO (in writing or verbally) use the statement "working in cooperation with the Office of the Massachusetts Attorney General."
- The LCP agrees to identify the AGO as a funding source for its consumer mediation program in any brochures, annual reports, or other promotional material.
- The primary point of contact for LCPs in the AGO is Aaron Kravitz, Program Manager in the Community Information and Education Division, (617) 963-2096 or aaron.kravitz@state.ma.us.

Mediation Process:

- Consumer complaints may be taken over the phone, in person (“walk-in”), through a written complaint or letter received by mail, by e-mail or by referral from the AGO hotline.
- Complaints received by the LCP from the AGO that are not appropriate for mediation by the LCP shall be returned to the AGO within five (5) business days. Complaints received directly at the LCP may be referred to another appropriate agency within five (5) business days of receipt. The consumer shall be notified by telephone and in writing of the referral and the reasons therefore. LCP will notify the AGO of such referral in their monthly header information.
- Within five (5) business days of the receipt of any complaint (either from the AGO or made directly to the LCP), an LCP staff person or mediator shall make an initial phone contact with the consumer to assess the status of the complaint and confirm any information necessary prior to commencing mediation efforts on the case. The initial communication between mediator and consumer should identify the LCP, provide the mediator’s contact information to the consumer, and explain the services to be provided and the procedures involved. The mediator may ask the consumer for additional information or documentation at this time, such as invoices, receipts, bills, or contracts. The initial phone call or message should be followed by a letter (mailed within 48 hours) with the same information. This letter should be sent within 48 hours regardless of whether the mediator actually spoke to the consumer or left a voicemail message.
- If a consumer does not reply to the initial phone call and/or letter within ten business days, a second letter may be sent to the consumer indicating that the complaint will be closed, and provide information on how to open the case in the future if the consumer so desires. The case may be marked as closed until further response from the consumer.
- Before contacting the merchant, mediators should carefully review the complaint. It is important to understand the complaint and the desired resolution prior to any attempt at mediation. Under no circumstances shall an LCP contact the merchant in any way prior to contacting the consumer.
- Within two (2) business days of a consumer indicating he or she would like to pursue mediation, an LCP staff person or volunteer must contact the merchant, explain the mediation process and make an initial determination about whether the merchant is interested in participating in mediation. The merchant should be provided with a copy of the complaint at this time.

- Most complaint settlement activity should be done over the phone.
Mediation attempted solely through form letters is not acceptable practice.
- Case notes should be kept in the case file for each complaint. Notes should include the date and content of each conversation, and/or steps taken. The file should also include copies of any letters received or mailed relevant to the case. **Case notes are subject to disclosure under the provisions of the Public Records Law. Personal opinions of the mediator or any staff should not be recorded in the file under any circumstances.**
- Upon closing the file, note the resolution, if any. When closing an unresolved complaint file, discuss (with both the consumer and business) the availability and advantage of Face-to-Face Mediation. Where appropriate, make a referral to the closest Face-to-Face Mediation Program.
- Referrals to Small Claims Court:
 - Thirty day demand letters sent prior to filing a claim in Small Claims Court must be written by the consumers themselves and cannot be sent on the letterhead stationery of the LCP.
 - LCPs may provide assistance to consumers referred to Small Claims Court in filing their claim. (Consumers given assistance in preparing a claim are more likely to follow through to court.)
 - If a claim is too large for Small Claims Court and the consumer needs the assistance of a private attorney, the LCP should refer the Consumer to the Massachusetts Bar Association Lawyer Referral Service at (617) 542-9103/(800) 392-6164 or the Boston Bar Association's Lawyer Referral Service at (617) 742-0625. There may also be local bar association referral services available; check with your county's bar association. Consumers should not be referred to particular attorneys within your community or program.

Public Records Requests/Records Retention:

Release of consumer complaints and other records made pursuant to this grant award will be done in compliance with the provisions of the Massachusetts Public Records Law and according to AGO policy as stipulated below. The Public Records Law requires a response to oral as well as written requests. Under the Massachusetts Public Records Law, requests for inspection or copying of public records must be responded to within ten (10) days of receipt. By accepting grant funds, each LCP agrees to cooperate with the Attorney General's Office to comply with public records requests for consumer complaints.

- **All documents including complaints, letters and any notes that are included in a case file are potentially responsive to the Public Records law.**

- **All complaints files should be retained and accessible for ten years. Requests to shred or otherwise destroy files older than 10 years must be made in writing (email is acceptable) to the AGO for submission to the Records Conservation Board for destruction permission. Records may not be shredded or otherwise destroyed until the AGO confirms in writing that such permission has been granted.**
 - **Note: Records containing personal information such as social security or credit card numbers must be destroyed by shredding in accordance with [M.G.L. c. 93I, § 2](#).**
- Requests for the Number of Complaints Filed Against a Business: If asked for the number of complaints filed against a particular business the LCP is free to release that information provided that the LCP: makes it clear that the complaints in the local office may not be all that have been filed; and reads the following statement:

"This information may include unevaluated complaints and cannot be considered evidence that the merchant has violated Massachusetts law. This information should in no way be considered an endorsement or a criticism of a particular business."

The LCP may also choose to refer the caller to the AGO Hotline line which will release the total number of complaints filed against the business.

- Requests For Written Complaints Filed Against A Business: Each program should ask that all requests be put in writing and directed to the Office of the Attorney General, Public Inquiry and Assistance Center. These written requests will be reviewed and responded to by the AGO in compliance with the Public Records law. The Public Records Law requires a response to oral as well as written requests. If the person making the request refuses to do so in writing, please make note of the request, including the language used, i.e. did the person ask for all complaints, all documents, all records, etc, and forward this information to PIAC immediately.
- Public Records Requests directly made to PIAC: The AGO will contact LCPs for relevant paperwork or complaints. LCPs must provide paperwork requested by the AGO in the course of a Public Records Request within ten (10) calendar days.
- Written Requests for Public Records: Written requests for public records or other information received by or relative to any of the LCP's work as it pertains to consumer assistance must be forwarded to Aaron Kravitz at (617) 727-6016 (fax). These written requests will be reviewed and responded to by the AGO in compliance with the Public Records law

- **Records Retention:** All complaints and associated files should be retained and accessible for ten (10) years. LCPs must provide information about their filing system to the AGO on an annual basis.

Press Inquiries:

- All inquiries from the press related to information concerning consumer complaints and/or practices of a business must be referred to the press office of the AGO. The press staff may direct the media to the LCPs as appropriate, but will first notify the LCP director and will discuss the nature of the request and the type of information he/she is at liberty to discuss.
 - LCP Directors may not talk to the media about complaint-related information until they have received clearance from the press office or other Attorney General staff.
 - The LCP may discuss generally with the press the type of service it provides and the kinds of complaints the program typically handles.
 - In any press contact, the LCP should mention that it is a recipient of funds disbursed by the AGO and that it works in cooperation with the AGO.

Education and Outreach:

- LCPs are encouraged to participate in education, training and outreach activities in their communities with the funds they receive from the LCAF.
- In their outreach or education efforts, LCP staff may only discuss consumer issues and mediation in general. Under no circumstances are LCP staff members to discuss specific companies, consumers or complaints.

Reporting Requirements:

- ***All reports must be submitted electronically to aaron.kravitz@state.ma.us.***
- **Header and Closer Reporting:** By the last day of each month, LCPs must report the cases opened and closed. Monthly reporting should use the attached forms, or a form of the LCP's design that includes identical categories.
- "Header" information must include:
 - Consumer name, mailing address, and phone number
 - Business name, mailing address and phone number
 - Business and complaint codes
 - A brief explanation of the complaint.

- “Closer” information must include:
 - Consumer name and mailing address
 - Business name
 - Case disposition/resolution
 - Value returned to consumer if any
 - Brief description of resolution. If any contact information has changed from the header, please also note this in the “notes” field.
- “Info Calls:” should include as much information about consumer or business as possible. If consumer does not wish to provide his or her name, list contact as anonymous. Types of info calls include:
 - Information provided (where a consumer wishes to “make you aware” of a situation either by mail or by phone)
 - Requests information (such as brochures)
 - Inquires about filing a complaint or requests complaint form
 - Requests for speaking engagements/presentations

On a Quarterly Basis:

- By the last day of October, January, March, and July, LCPs must submit the financial reporting forms.
- Documentation (such as vouchers, pay stubs, receipts or copies of receipts) need not be attached to the financial reporting form, but must be made available to the AGO upon request. Failure to provide such documentation upon request may result in the loss of the remaining funds, and the repayment to the AGO of expenses that cannot be appropriately documented.

As a condition of the grant award, each LCP agrees that representatives of the AGO may at any time review the books and records of the LCP to ensure compliance with the terms of the grant award. Such inspection, review and/or audit by representatives of the AGO may occur at any time with or without advance notice to the LCP.

Legal Representation:

- The AGO is unable to provide legal representation to volunteers and/or paid staff of LCP(s) who are sued or subpoenaed with respect to consumer complaints handled pursuant to these awards.

Confidentiality/Conflict of Interest:

- Information the LCP gains through its affiliation with the AGO is confidential and must not be disclosed. Such information includes, but is not limited to, internal memos, lists, and discussions of pending investigations, as well as trends or cases being reviewed by the AGO.
- Under no circumstances may an LCP elicit or attempt to elicit any information from the consumer, other than that pertinent to the resolution

of the consumer's complaint except if subject to civil or criminal legal process.

- LCP staff/volunteers shall not disclose any information related to or obtained in the course of assisting any consumer to any person other than the consumer or employees of the AGO, without the explicit authorization of the consumer. (Please note, this authorization is given by the consumer upon signing the AGO complaint form, though it may be prudent to remind consumers of this prior to release of information.)

Statutory Requirements:

- Use of Funds: The Local Consumer Aid Fund ("LCAF") grant funds shall only be used for expenses involved with the intake, resolution, and administration of consumer complaints.
- Because the statute requires coverage of each city and town in the Commonwealth, each Local Consumer Program (LCP) will provide the level of service to the designated geographic area as specified in the Grant Award.
- Pursuant to [M.G.L. c. 12, §8\(F\)\(J\)](#), all charitable organizations, except those organized exclusively for religious purposes, must register and file annual financial reports with the Non-Profit Organization/Public Charities Division of the Attorney General's Office. All organizations which are eligible for tax exempt status under [26 U.S.C. §501\(c\)\(3\)](#) are charitable organizations and must file such reports. Failure to do so will result in the loss of funds.
- Unemployment Insurance The AGO requests that LCAF grant recipients choose the "contributory" rather than the "payments in lieu of contributions" method of financing unemployment benefits as Allowed under the Employment Security Law ([151A, §14A](#)). LCAF grant monies may be used for the quarterly contributions to the unemployment insurance fund. However, under no circumstances can LCAF grant monies be used to pay unemployment benefits.
- Conflict of Interest: [M.G.L., Chapter 268A](#) (Conduct of Public Officials and Employees) may be applicable in some cases.